

To: Dorka, Lilian[Dorka.Lilian@epa.gov]
Cc: Farrell, Ericka[Farrell.Ericka@epa.gov]
From: O'Lone, Mary
Sent: Mon 3/14/2016 10:01:48 PM
Subject: Re: EPA OCR Complaint 11R-14-R4 (ADR)

I am here all week except Friday.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: Dorka, Lilian
Sent: Monday, March 14, 2016 5:59 PM
To: O'Lone, Mary
Cc: Farrell, Ericka
Subject: RE: EPA OCR Complaint 11R-14-R4 (ADR)

That's too late. I would like to be included in the staff level discussion as the AD please, this week?

From: O'Lone, Mary
Sent: Monday, March 14, 2016 7:52 AM
To: Dorka, Lilian <Dorka.Lilian@epa.gov>
Cc: Farrell, Ericka <Farrell.Ericka@epa.gov>
Subject: Re: EPA OCR Complaint 11R-14-R4 (ADR)

I think you are on the invite for next Monday

Mary O'Lone

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1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: Dorka, Lilian

Sent: Monday, March 14, 2016 7:48 AM

To: O'Lone, Mary

Cc: Rhodes, Julia; Wooden-Aguilar, Helena; Covington, Jeryl; Farrell, Ericka; Temple, Kurt; Johnson, Johahna

Subject: Re: EPA OCR Complaint 11R-14-R4 (ADR)

Thanks! I'd like to participate so that I can catch up. Ericka, could u please forward the meeting invite? Thanks!

Sent from my iPhone

On Mar 14, 2016, at 7:43 AM, O'Lone, Mary <o'lonemary@epa.gov> wrote:

Yes. I think Ericka scheduled a meeting next Monday to talk about the case.

Ericka, Johahna, Jeryl & I will get together this week, dust everything off, & develop a proposal for moving forward which will include an updated RFI.

We had had a call with DOJ last week.

Deliberative Process / Ex. 5

Ex. 5 - Deliberative/ACP

Thanks

Mary O'Lone

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1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: Dorka, Lilian

Sent: Sunday, March 13, 2016 9:32 PM

To: O'Lone, Mary; Rhodes, Julia; Wooden-Aguilar, Helena; Covington, Jeryl; Farrell, Ericka; Temple, Kurt

Subject: Fwd: EPA OCR Complaint 11R-14-R4 (ADR)

Hi guys, so if we pick up where we left off, we need to pull out the draft RFI we had written and take a new look right? I think we also shared that w DOJ, or am I not remembering correctly?

Sent from my iPhone

Begin forwarded message:

From: "Shaw, Betsy" <Shaw.Betsy@epa.gov>

Date: March 10, 2016 at 9:19:45 AM EST

To: "Golightly-Howell, Velveta" <Golightly-Howell.Velveta@epa.gov>

Cc: "Dorka, Lilian" <Dorka.Lilian@epa.gov>, "Covington, Jeryl" <Covington.Jeryl@epa.gov>, "Farrell, Ericka" <Farrell.Ericka@epa.gov>, "Temple, Kurt" <Temple.Kurt@epa.gov>, "Packard, Elise" <Packard.Elise@epa.gov>, "Rhodes, Julia" <Rhodes.Julia@epa.gov>, "O'Lone, Mary" <o'lane.mary@epa.gov>, "Harrell, Collette" <Harrell.Collette@epa.gov>, "Shapiro, Mike" <Shapiro.Mike@epa.gov>, "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>, "Koerber, Mike" <Koerber.Mike@epa.gov>, "Schrock, Bill" <Schrock.Bill@epa.gov>

Subject: RE: EPA OCR Complaint 11R-14-R4 (ADR)

Hi Velveta,

The points of contact for OAR will be Bill Schrock and Mike Koerber in OAQPS.

Thanks,

Betsy

From: Golightly-Howell, Velveta
Sent: Wednesday, March 09, 2016 11:58 AM
To: Shaw, Betsy <Shaw.Betsy@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Dorka, Lilian <Dorka.Lilian@epa.gov>; Covington, Jeryl <Covington.Jeryl@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>; Rhodes, Julia <Rhodes.Julia@epa.gov>; O'Lone, Mary <o'lane.mary@epa.gov>; Harrell, Collette <Harrell.Collette@epa.gov>
Subject: EPA OCR Complaint 11R-14-R4 (ADR)

Hello Betsy, Mike and Larry. I'm writing to let you know that Marianne Lado Engelman of Earthjustice, the lead representative for complainants, has contacted me regarding REACH. the Title VI discrimination complaint which alleges race and national origin discrimination related to swine feeding operations in North Carolina. Ms. Lado Engelman advised that the complainants have concluded that ADR is unproductive; they therefore request that OCR reinstate its investigation. In requesting recommencement of the investigation, Ms. Lado Engelman stated:

"Finally, we wanted to mention that our initial mediation session was interrupted by an effort by the National and North Carolina Pork Councils to interject themselves into the mediation process. Despite the terms of ADR, which included a requirement that mediation be confidential, and despite our clear opposition to their self-styled "motion to intervene" in the complaint and mediation process, five representatives from the Pork Council appeared without notice to Complainants at the first mediation session. Their presence and insistence at playing a role in mediation delayed the start of our session and acted as a form of intimidation of our clients. Representatives from DEQ failed to object to the behavior. Indeed, quite the opposite, they tried to persuade Complainants to consent to bringing the Pork Councils into mediation. We thought it was relevant and important to bring these events to your attention."

FYI, in response to the councils' request to intervene in ADR, in or about January, I

notified the requesters that the parties would have to agree to include them and that OCR does not participate in ADR. Ms. Lado Engelman was copied on the response.

As ADR has ended, OCR will relaunch its complaint investigation. Shortly after OCR began the investigation, you provided POCs for your office. We realize that they may have changed. Would you please provide the names of current POCs ASAP and by Friday, 3/18?

Thank you for your ongoing assistance!

Velveta

Velveta Golightly-Howell

Director, Office of Civil Rights

Environmental Protection Agency

1200 Pennsylvania Avenue, N.W.

Mail Code 1201A

Washington, DC 20460

202-564-6685

To: Dorka, Lilian[Dorka.Lilian@epa.gov]
From: Farrell, Ericka
Sent: Thur 6/2/2016 11:29:32 PM
Subject: Investigation Plan
[11R-14-R4 case management plan 03252016.docx](#)
[ARROWHEAD Prelim Case Management Plan updated 4 14 15.doc](#)

Good Evening Lilian,

Not expecting an answer tonight. I would like to know what template we should follow for an investigation plan. I have attached the last IP that was done for Arrowhead and I also attached the REACH case management plan. There is no template in the CRM. Just curious to what we should be using. I asked others and no one that I asked was sure what we should be using.

Ericka

EPA

**Moderator: Jonathan Stein
May 12, 2016
11:05 a .m. ET**

Operator: This is Conference #160552132

Conference record has joined the conference.

Female: Hello?

(Jill Johnston): Hello. This is (Jill Johnston).

Female: Hi (Dr. Johnston). Is Marianne on the line yet?

Mariane Engelman Lado: OK, you know what? We were mute. My apologies. So this is Mariane Engelman Lado from Earthjustice and I'm here with three colleagues and I'll let them introduce themselves.

Alexis Andiman: This is Alexis Andiman, also Earthjustice.

Brent Ducharme: Brent Ducharme from the UNC Center for Civil Rights.

Elizabeth Haddix: And Elizabeth Haddix, also from the Center for Civil Rights.

Female: Hi there. Who's there at EPA?

Ericka Farrell: OK. We got Ericka Farrell from OCR Title VI Office.

Jeryl Covington: Jeryl Covington from OCR Title VI Office.

Mary O'Loan: This is Mary O'Loan. I'm from the Office of General Counsel.

(Johanna Johnson): Hi. This is (Johanna Johnson) also from the Office of General Counsel.

Ericka Farrell: Hi there. Thank you. OK. Good afternoon. Again, this is Ericka Farrell from the Office of Civil Rights Environmental Protection Agency in Washington, D.C. and thank you for taking the time to talk with us. And please be aware that this interview Dr. (Jill Johnston) is being recorded. And, are there any objections to recording this interview?

(Jill Johnston): No.

Female: Dr. Johnston, do you have any objections.

(Jill Johnston): No I guess.

Ericka Farrell: OK. Thank you. And as you know, your August 2014 study was submitted to OCR to alive (upon) in this investigation. And so whether North Carolina, Department of Environmental Quality Regulations that's (might) bidding operations, discriminate against African-Americans, Latinos, and Native Americans on the basis of race and national origin in neighboring counties and violation of Title VI and EPAs implementing regulations.

And today we plan to ask some – ask you some fundamental question. I'm sorry, foundational questions, regarding the study in order for the OCR to determine whether we can rely on this study for our investigation. And in doing so, we are trying to understand what issues and arguments may be raise in opposition to your study. And we may need to ask you further questions at a later date.

And as we get started, we're going to start right now, Dr. Johnston with just some basic background questions. And can you please state with the record your name.

Mariane Engelman Lado: I'm sorry. Ericka – Ericka, if I can just interrupt you for a second. I just want to make sure, there were two studies that Dr. (Wayne) and Dr. Johnston did conducted and then we submitted. One was the 2014 which you mentioned and the other was the revise version that's dated that it was exhibit 12 to submission earlier this year. And it was dated October 19th, 2015 and it's based on that current set of (hub) facilities that are under the general (permit). I just want to make sure both are in front of you.

Mary O'Loan: Well Marianne, the other one is not. The second only update. That's going to be one of our question. I'm sorry. This is Mary O'Loan. That was going to be one of our questions. Jeryl is now looking to see if we have it in our record.

(Gerald Cadington): Right. As if Exhibit 12, that's the decoration by Ex. 6 - Personal Privacy

(Jill Johnston): No. She sent on something –

Ericka Farrell: So Jeryl, is not Exhibit 12 to the complaint. It's attachment 12 to a subsequent submission that we made in 2016 that contains Ex. 6 - Personal Privacy declaration and it contains the revision of the study.

Mary O'Loan: What's the date of that because they're think – this is Mary again.

(Jill Johnston): OK.

Mariane Engelman Lado: They're faking their head like OCR doesn't have it. April as well as, you did received it. I'm certain of that. April 12, 2016. And it had – and this is attachment 12. And it's important, you know, that we'll get into the methodologies and all that.

But you know, we wanted to make sure that there was a study of the actual data under the new permit. And these provide study is based on that, the data under the new permit.

(Jill Johnston): OK.

Mariane Engelman Lado: And we should go ahead even if you can't find it, you can ask questions based on the first study and we can resume it another time. That will still be helpful I'm sure. But it's important that you have that second study.

Mary O'Loan: (Marianne) – this is Mary again. Are you at your desk? I mean can e-mail it to Jeryl?

Mariane Engelman Lado: Yes. E-mail it to all of us so that at least we know we have it. They'll go back and look for it. But I just want to make sure that we do get it today.

Ericka Farrell: But I also agree with you. Because I think methodology change from the report submitted with the complaint today. The questions would be the same. It's just a matter of the conclusions and results, right? That's what would have change potentially.

Mariane Engelman Lado: That's right. I mean, I'll let Dr. Johnston speak and she'll answer specific questions about that. But the basic methodology is the same – there was – there may have been some twists that when you focused on it, she can answer questions about. So Alexis is forwarding it and – who's – so who's going to – if they look for an e-mail who would it be from?

Alexis Andiman: (There's) just one e-mail I can send it to you and I'll just forward it to you right now.

Mariane Engelman Lado: Who should we send that for?

Alexis Andiman: Covington.jeryl.

Mariane Engelman Lado: OK. Got that.

Alexis Andiman: @epa.gov.

Mariane Engelman Lado: We do not – yes, we do not received that. I don't have a copy of that.

Female: Hi. So back to the beginning.

Ericka Farrell: Yes. For the record, Dr. Johnston, can you please provide your full name?

(Jill Johnston): Jill Elizabeth Johnston.

Ericka Farrell: And please provide your professional contact information specifically. Your office address and office telephone number and office e-mail.

(Jill Johnston): Yes. **Ex. 6 - Personal Privacy** My office phone number is 323-442-1099 and my e-mail is jillj@usc.edu.

Ericka Farrell: Thank you. And as we begin, can you also state what your current professional position is?

(Jill Johnston): An Assistant Professor of Preventive Medicine in the Division of Environmental Health at the University of Southern California.

Ericka Farrell: OK. And as we begin, also, can you give us what your professional background is in relation to the studies that we're going to be talking about today.

(Jill Johnston): Yes. I have a PhD in Environmental Science and Engineering with the minor and public policy from the University of North Carolina at Chapel Hill and also completed a Post Doctoral Fellowship and Environmental Epidemiology also at UNC.

Ericka Farrell: OK. And now, I'm going to (time) this over to Mary.

Mary O'Loan: This is Mary O'Loan. Dr. Johnston, Marianne's probably explain to you one of the reasons that we wanted to speak with you. And after we go through the questions that we have, you can see why it was very good idea for us to speak

to you first. Because what we wanted to do when Marianne explain that Dr. (Ling) was ill and that you know, if we had a chance to speak with him in the future, we wanted to try to limit the questions that you know, we would you know, we would be asking him.

So, we really appreciate you taking yourself available to answer these questions with us. Because I think, there a lot of them and a lot it explain from the fact that don't have a particular background on this. So, we're going to ask you probably some very basic questions from your perspective.

(Jill Johnston): OK.

Mary O'Loan: But the first one is your role in the – we're going to talk first about the 2014 study. And your role in that study.

(Jill Johnston): Yes, so I collected the data and conducted the analysis and consultation with Dr. (Ling) and created that the table and figures n this report and help with drafting the tax. But Dr. (Ling) had the lead on writing the text for this.

Mary O'Loan: OK. With this study peer reviews or did it go through any kind of even in the formal internal sort of peer review?

(Jill Johnston): There was discussion with other faculty within our department at University of North Carolina but it was not submitted or considered under scientific peer review process for our journal.

Mary O'Loan: OK. And we might as well ask the update that was done. Is it similar?

(Jill Johnston): Yes, (inaudible) often not submitted or has been under a scientific peer review.

Mary O'Loan: OK. Do you – and Marianne I don't know if this is – this is may be a question for you. I don't know if it's for you or Dr. Johnston but was the – was the 2014 study submitted to North Carolina DEQ?

(Jill Johnston): No.

Mary O'Loan: OK. Or do you know if they're aware of it?

(Jill Johnston): Not to my knowledge.

Mary O'Loan: OK. All right. Now we're going to get into sort of a knots and bolts of the questions that we had about the study itself. So, Dr. Johnston, do you know – can you explain why three miles was chosen as the distance?

(Jill Johnston): Yes, so we based that on a few (pay existing) peer reviewed scientific studies. One is by (May Adelli) from 2006 that specifically looked at asthma prevalent in Medical school students in North Carolina and found that medicals are there a few mile (radius) of an industrial hub operation had higher prevalent of asthma, another asthma related symptoms, some type of students who went to school further away.

Also some (dispersion) modeling of hydrogen sulfide conducted of a large (hub case) in Iowa show that hydrogen sulfide can travel up to this 6 kilometers which is a little three miles from the facility itself and impact (air) quality in that radius. And there was also sort of two other studies that looked at, the relationship between hydrogen sulfide protections and (inaudible) one from North Carolina and one from Iowa.

The one from North Carolina being by (Getry) in 2016 and then by (inaudible) in 2013 that used 5 kilometers as their distance.

Mary O'Loan: OK. Thanks. Did you by any chance look at other distances or analyze other distances that weren't discussed in the 2014 report.

(Jill Johnston): Yes. So we did not. We considered different criteria for inclusion of senses blocks, you know, whether any part was within three miles or whether they're (centroid). But we didn't have a capacity that compare our three mile results to two miles or one mile or refresh some other criteria.

Mary O'Loan: OK. How was – so (there's) the question. How is the (block centroid) determined? Was it be graphic, vocation or?

(Jill Johnston): Yes. So it's within our GIS software with you know, the sentence lock data from the U.S. and to 2010. And then, yes, the program assigned the (centroid).

Mary O'Loan: So it assigned that based on the geographic center of the block not something to do with the population.

(Jill Johnston): It had nothing to do with population, yes. It had to do with what's (facial) definition of where the (centroid) would be based on the shape of the block.

Mary O'Loan: OK. For the study area, 19 counties were excluded that didn't have an IHO and didn't boarder one. Why was it important to exclude those 19?

(Jill Johnston): We thought it's appropriate to consider population that were potentially at risk for being near an industrial hub operation. And so, just the geography and (mountainous) nature of Western North Carolina, you know, as well as highly urbanized areas. Or just not locations where (capos) would be sided. So we didn't consider those population at risk and that did not include them in the study area for this analysis.

Jeryl Covington: Yes. This is Jeryl Covington. You do have one question on that one. You all were also excluding the counties that were adjacent to and had no – please give – can you explain the basis for that exclusion as well to the 19th county in the Western North Carolina area.

(Jill Johnston): So it's with the counties where they had any two criteria. One is they had no (capo) in that border and no adjacent county for them had any (capo). And it's largely because these areas are highly mountainous and don't have the facilities or that the land maps that you need for the liquid waste distribution system. For a (capo) to be permitted there.

Jeryl Covington: OK. All right.

Mary O'Loan: This is Mary again. What is the – can you explain the adjustment for morality and is that the same thing as adjusting for population density. And then why was that appropriate?

(Jill Johnston): Yes. So – yes. The – so the content of reality we measured it by population density for each (inaudible) block. And we find this – and so we present those to unadjusted and the adjusted values in the report. But find that this is important because the land availability and also typically the price of land is highly influence by the population density in the amount of land that is available.

And also different (inaudible) of which racial or ethnic group within which areas can be – can influence population density as well. So that's why we – we chose that content of both the marker of kind of the economics and the land availability to adjust for in the model.

Jeryl Covington: This is Jeryl again, could you – could you clarify the land availability. I wasn't quite clear on that explanation.

(Jill Johnston): OK. Yes, so, I mean. As I mentioned before, now do you need the barns to how is the animals but then also you know, field around it where the waste that's spray. So an area with the high population density, you're not going to have – it's not necessarily going to be appropriate to have the space availability to put a (capo) on those areas or to put as many.

And I sort of – it's basically, you know, the land available for agriculture can basically correlated with the population density of that area.

Mary O'Loan: But that was – OK. This is Mary again. Because I – you can't see me but my brain is cranking very slowly. But, so this is not because you were excluding these areas because you've already excluded the 19 counties that have nothing. Now you're doing an adjustment to say, to basically say that OK, in the – to find that the (sparsely) populate – maybe we'll get into when we get back into the table in explaining those. But I'm trying to understand that the fundamental points of why you did it.

And it is to say that these things tend to go in really rural areas. And you know, as we look at areas to get more and more rural, we also see, you know, where they are. The amounts of (inaudible) there are and a change in the demographics. That's why you're doing the morality piece to it?

(Jill Johnston): Yes. And it's sort of a contact of, I guess they're familiar with confounding and other epidemiological model. So we felt that population density is a very important factor that influences deciding of (inaudible) (capos). And so, that's why we presented sort of adopted models to acknowledge that fact that population density and sort of a proxy for both the cost of land and the, sort of amount of land that would be available for either cultural activity was important to consider when we're looking at the association between race and committing of how (capos).

Mariane Engelman Lado: This is Marianne. Can I jump in for a sec. Stage 4 of the 2014 reports. Dr. Johnston, you have – if there's a sentence there that says, by adjusting for populations density or morality, we compare racial vulnerability that IHOs for racial groups within each level of morality to –

(Jill Johnston): Right.

Mariane Engelman Lado: I think that's what you're getting at. Can you explain that a little bit more that is – so it's not taking away the family ins of (racist) testing for it by looking within each level were up. Or I can even say the word, morality. Is there still salience of race towards this outcome?

(Jill Johnston): That is correct and we try to provide an example here that perhaps a little bit more intuitive. But for example, like when you're looking at mortality rate and you want to compare across two populations. It's important to account for age because of risk of mortality changes with different age groups.

And so at the age structure of the two populations aren't equal, you want to address for those factors or account for those factors so that you can look with any to age group. So essentially, we're trying to account for the same thing

here that is not (inaudible) that perhaps your risk for a (capo) being permitted nearby. You – is different depending on the population density of the area where you leave.

And so by including that adjustment, we can account for those differences across different areas in North Carolina.

Mariane Engelman Lado: OK. Is everybody good on that right now? OK.

Mary O'Loan: OK. Can you explain the study state live weight calculation? So we're on page 4 again of the 2014 study. And how did you determine whether the study state live weight of an IHO should be included and I – this is – it's not about the calculation of the city state live weight but more – how you captured a particular IHO. And I sort to have two visual images in my mind. And one has – you take the (centroid) of a block. And you draw a circle three miles out, right?

(Jill Johnston): OK.

Mary O'Loan: This is what I'm thinking happened. And the latitude and longitude of any IHO that still within that three mile circle is what you counted. Is that right?

(Jill Johnston): Correct. And it was some, but yes. We started the (centroid) of each block. And did exactly what you describe.

Mary O'Loan: Because, well we were trying to figure out whether there was anything – whether it was like if you had, instead you were pulling. If there were a block that (startle) the three mile circle, you know, you would pull an IHO that might be sitting in that block. Do you know what I mean? But that's not what you did. You just – it was if the latitude and longitude of that (cape) of fit in the circle. Then it was added to the total weight.

(Jill Johnston): Yes. So in essence, each (capo) was not counted one time. It could be counted multiple times depending on how many blocks it was within three miles from.

Mariane Engelman Lado: This is Mariane Engelman Lado again. Dr. Johnston, if there was a (capo) that startled those that three mile radius or within one radius and another radius, how would you handle it?

(Jill Johnston): Yes. So we were reading on analysis is the sense of block. And so for each senses block sort of independent or the other ones, we would draw to three mile radius and count up every (capo) that sell within the three miles. And then we would go to the next, you know, the adjacent block to it. Draw a circle in count of every (capo) within three miles of that block.

And so, the son of the (stead) state live weight, could be counted, you know, if not, we didn't assigned each (capo) only to one block. Reassign each block to the nearby (capos). Either that help explain it?

Mariane Engelman Lado: I think so.

Mary O'Loan: Well, so then the next, I guess my next question is when you look at the people. So the latitude and longitude has to be within third, three mile circle. And then when you count the people, how are you doing that?

(Jill Johnston): So the people aren't counted more than once. We include the population of each fences block. So, all the – there are the hundred people living in the senses block. They're all assigned the same study state live weight based on what the three mile radius.

Mary O'Loan: OK. OK.

(Jill Johnston): So people are not counted more than once in the model.

Mary O'Loan: OK. I get it. Anybody else have any question about study state live weight? All right.

OK, the next question was about you know, asking you about the update. Did the update happened but we know that it did. So, we will skip that one and come back to it at a later date probably.

(Jill Johnston): OK.

Mary O'Loan: So on page 4, you describe how race in ethnicity was categorized. But then when we look at the complaint, we went – and we look at page – where is that? 106. 106.

OK, on page – I don't know what – 35 of the complaint. It also talks about the characterization in particular of African-Americans. And the description seemed inconsistent to us. And it had to do with (inaudible) people who could identify themselves as black and Hispanic.

And so, we were wondering if these two – if the state (meant) about it on page 4 of the 2014 report and put note 106 on page 35 of the complaint, whether they were inconsistent or weren't inconsistent or you know, like how we should be interpreting this.

(Jill Johnston): I mean, so I can describe the definition we used in the report and then maybe Marianne can talk about the footnote. But we used sort of one other race category. And so, our definition of black was anyone who identified it – identify themselves as African-Americans are black list or without any other race or ethnicity.

So if they identified as black and Hispanic, it would be categorized in this black group. So that's how we did it for the purposes of this –

Mary O'Loan: OK. I'm sorry Dr. Johnston in – on page four it says black. It's people who identify themselves as African American or Black with or without any other race. Is that right? I thought just heard only without – with.

(Jill Johnston): Yes.

Mary O'Loan: I'm sorry without.

(Jill Johnston): No, I'm sorry for the fact that I misstated. No, I meant – yes, (inaudible) written here is correct. So it's –

Mary O'Loan: And then footnote 106 says the term African American here in core sponsors turn black as used in the report it – the black racial category referred to those who identified as African American – that's probably a typo. It should be with or without.

(Jill Johnston): OK, all right.

(Johanna Johnson): Hi this is (Johanna Johnson). I just one quick follow up question. And that's with regards to individual to identify themselves as Black Hispanic. You indicated they will be categorized in the black category. But would they also appear in the Hispanic category as well?

(Jill Johnston): Yes, So I would note one of the table these terms but the definitions of Black, Hispanic and America Indian. We do not use mutually exclusive terms or mutually exclusive categories. So people when we do the race specific analysis they could be counted with more than one race based on what they identified on their (inaudible) forms.

Mary O'Loan: OK, any other –

(Jill Johnston): But the category of non Hispanic white and people of color. Those are mutually exclusive. So there's no one that overlap, you know, which is what we use for our primary analysis.

Mary O'Loan: Right. Anything else?

(Johanna Johnson): No.

Mary O'Loan: OK. Now what we'd like to and (Mary Anne) maybe you can help in the updates that was (inaudible). You know is it just the numbers that have changed? Well let me explain what I'm going to do here.

What we wanted to do was walk through in a study. Each of the tables – each of the figures and table to make sure we understand what they say. and then we wanted to look at them – look at how they're characterized in the complaint because one of the things that we have to do as discussed it internally is be able to communicate in layman's terms how these – what these findings are. So we want to make sure that we understand it and we can see that, you know, the complaint takes, you know, right up something.

And so we wanted to see – we wanted to make sure that, you know, within study or I mean what within the complaint could, you know, use that as our layman's discussions. That we wanted to cross walk these things but also go through them and make sure that we actually understand, you know, what the study itself is saying. OK.

Mariane Engelman Lado: Yes, let me give some context and I don't know if this will be helpful or not but let's try. First of all Elizabeth reminded me and we will double check. When we filled the complaint we probably sent a copy to (Inaudible) are now DEQ.

There were some confidential documents in there. So we didn't send the whole thing. And we'll have to go back and check our records and let you know what we sent and what we didn't. I don't see any reason – I mean this was not a confidential document. But I just don't remember.

So and I'm not sitting in front of the, you know, my computer where I can pull up exactly what was sent to DEQ. So we'll do that and we'll get back to you on that. In terms of the difference let me tell you our thinking and methodology as complainants. And then Dr. Johnston can say a little bit about what might have been different if you remember Dr. Johnston.

So we obviously wanted to get even though the 180 day requirement is waivable we wanted to get a complete set of allegations into OCR within 180 days. So we wanted to do – just a submit a disproportionality analysis that was rigorous within that 180 day timeline. The challenge is the 180 day timeline the data – I think it wasn't even up on the Website for DEQ then DNR. But it was and not with sufficient notice to be able to ask Dr. (Ling) and Dr. Johnston to do an analysis.

So talking to – knowing that there wasn't going to be that much difference in the location of these facilities for technical reasons which you maybe aware of that any new facility in the State of North Carolina have to use new technologies. And it's only pre-existing facilities that haven't expanded that under the state the general permit. So while some facilities may drop out of the list there are not going to be any new facilities on the list.

And there's kind of disincentive to drop out. So we knew there wouldn't be that much change. So we did ask Dr. (Ling) and Dr. Johnston if it made sense to do the disparities analysis first on the list that existed at the time right before we filed the complaint which is what they did with the – and then and they could refine their methodology by doing that building on the work that they had previously done on disproportionality.

And then once – once we had the list and I should say and Dr. Johnston you can talk more about this. There was a lot of work that went into that. There was a lot of clean up of the data. The – the geographic locations often weren't right.

There was just a lot of work that went into working with that list. And then they were able to provide the 2014 disproportionality analysis. But with the full intent that once we had the – the list of facilities that had been approved for operation under the challenge firm and are under the new permit they would then conduct the same analysis.

But I say the same kind of in quotes because if there were any – any lessons learned or any tweaks that the new data provided that they would – they were

free to kind of have the best analysis possible. So, you know, again Dr. Johnston can refresh my memory to precisely what tweaks there may have been. But I don't want to state that the only difference is in the results because there was an opportunity to have a fresh look at the methodology – fundamentally the methodology was similar. But they were able to tweak the way they were doing things in order to do the best study possible.

(Jill Johnston): Yes, so the major difference is there were 2,055 cases included in the 2014 analysis. And then for the updated analysis based on the permit list there were 2029. So, you know, that was a major change for facilities that do not undergo permitting or ones that where their permit expired and we do have any evidence that they were going to like renew their permit.

What we tried to do in the 2014 analysis was use the best available knowledge we had about which – which tape off (inaudible) to include. So we did get some additional information from the state about which ones were not operational and which ones may have had permits but had zero animals housed there. So we did make some adjustment in this first paper to try to anticipate what would be included under the general permits.

But in terms of the methodology the analysis and the tables provided are the same. We changed the figures a little bit to try to make them look nicer and we also – there were 20 western counties excluded and that was using the same criteria as we did before. But there was just one additional county that met these criteria.

Mary O'Loan: OK. Yes, OK. Well that was a good explanation. So can we now turn to the – we're going to work from the 2014 (inaudible) you know what we have in front of us. And maybe when you made the changes some of our questions will be answered.

But I just – I wanted to start on page 11 just with figure 1. And I have no questions about that. Now I'm moving on to figure 2.

Mariane Engelman Lado: OK.

Mary O'Loan: OK. It says the percent of population living within three miles of an IHO in relation to the percent of people of color. Is that the percent of the population in the green study area or the –

Mariane Engelman Lado: Yes, so all of the data and all the table and figures provided here are from the study area. So figure 3. So in the complaint figure 3 is described on page 35 in paragraph 133. I should (inaudible).

And I guess the – what were asking you Dr. Johnston is well I guess do you agree that this statements states what your study shows and what that figure shows I guess?

(Jill Johnston): Can you read the statement please?

Mariane Engelman Lado: You don't have it? I'm sorry. It says as shown in the following figure which depicts the relationship of industrial swine facilities to the racial and ethnic composition of North Carolina swine facilities are clustered in communities of color.

(Jill Johnston): Yes, I would agree with that statement.

Mary O'Loan: OK – flipping.

(Jill Johnston): And now just to note this becomes figure 2 actually in the updated report. And here we kind of just have three categories of people of color. Anyway it's displayed more closely than how we conduct the analysis in the updated report.

Mary O'Loan: What do you mean? I'm not sure I understand what you mean.

(Jill Johnston): (inaudible) – so we actually had like six – six categories that we assign census blocks into six racial category. And on this map but as original figure in order to simplify it we just show three categories under 20 percent, 20 to 40 percent and then above 40 percent.

Mary O'Loan: We – that was actually a little hard to hear. Can you say that again?

(Jill Johnston): I'm sorry. So on this figure the figure 3 we show – we just showed three categories just that we simplify for purposes of displaying the information which was less than 20 percent, 20 to 40 percent and greater than 40 percent whereas in the updated figure we show all six categories that we use for our analysis. So it's just a minor and it doesn't impact my interpretation of it.

Mary O'Loan: OK.

(Jill Johnston): But just to note if we were discussing these changes between the two versions. That was one. We just changed how we displayed the information.

Mary O'Loan: OK. in the updated version it's figure 2 on page 11.

(Jill Johnston): Yes.

Mary O'Loan: OK. So now we're moving on to table 2. So table 2 is – table 2 is discussed in a handful of paragraphs in the complaint. So I guess I will just read them to you one at a time.

So this is paragraph 132 on page – I don't know what – wait. 13, so it's 13. No. It's not. What am I talking about? 35, paragraph 132 on page 35 of the complaint. And we are talking about table 2 on page 13 of the study.

Paragraph 132 says analysis of the populations statewide yields consistent result. The proportionate of African Americans, Latino's and Native Americans statewide living within three miles of an industrial swine facility are 1.4, 1.26 and 2.3 times higher than the percentage of non Hispanic White respectively which (inaudible) is varied are also statistically significant. Is that right?

Mariane Engelman Lado: Yes, table 2.

Mary O'Loan: I would note that refers to both page 6 and table 2 of the report. The (inaudible) 32, 132.

Mariane Engelman Lado: OK.

Mary O'Loan: That is basically your sort of quoting page 6. Is that what you're saying?

Mariane Engelman Lado: I believe so.

(Jill Johnston): So that statement I think maybe actually doesn't draw on table 2 that we have shown here which is just for the study area. I think – I believe those numbers that you've read are for the whole state for a statewide analysis where we don't exclude any areas.

Mary O'Loan: OK. So which table should this or this about? Where are those results displayed? Here. It's the first paragraph on page 6, OK.

(Jill Johnston): I am not sure of all the tables from our statewide analysis were included in the documents sent to you.

Mary O'Loan: You mean – OK. So the document dated August 29th, 2014, Industrial Hog Operations in North Carolina. What you're saying is there's results discussed in the text that aren't displayed in the table or figure.

(Jill Johnston): Yes, so all the tables and the figures provided in this document are just for the analysis where we restructured to the study area as (inaudible) –

Mary O'Loan: OK.

(Jill Johnston): But there was a parallel analysis that didn't restrict that like included all (inaudible) in the State of North Carolina as of these results included in the text on page 6 (inaudible) analysis that uses the entire population.

Mary O'Loan: OK. OK. Just to draw your attention to paragraphs 131 and 132 of the complaint. 131 says analysis based on the study area that excludes the state

five major cities in western county. And then goes on to give the numbers. And then paragraph 132 by contrast says analysis of the population statewide yields consistent result.

So paragraph 131 is about the data in the study area and paragraph 132 says it's consistent but here are the numbers for the state – for a statewide run. Is that correct (Jill)?

(Jill Johnston): Yes.

Jeryl Covington: So 131 again is just for the state –

(Jill Johnston): OK.

Jeryl Covington: Or Statewide?

Mary O'Loan: Paragraph 131 says analysis on a study area so it's for the state but only the study area within the state. And that's what the tables reflect. Paragraph 132, the very first sentence says analysis of the population statewide yields consistent results.

So that's – those numbers 1.4, 1.26 and 2.39 which are the same numbers that appear at the top of the report on page 6 first paragraph is the statewide numbers not just the study area.

Mariane Engelman Lado: So the reference table is not because those numbers come from table 2. But because table 2 – wait. What is it? It's not about – the reference to table 2 should probably be like C also. It's – you know I think table, I'm sorry.

Page 6 is the actual support where table as – as Dr. Johnston said seems to be only the study area. Is it all state in the original?

Jeryl Covington: Well it's racial and ethnic composition of (inaudible) is blocked within three miles of an (inaudible) IHO and more than three miles. So it's the study area excluding the western county.

Mary O'Loan: (inaudible) the study.

Jeryl Covington: Let me (inaudible) –

Mary O'Loan: OK, so I'm sorry. So this paragraph is basically saying that the statewide results are consistent with table – the proportions are consistent with table 2 which is about the study area?

Mariane Engelman Lado: Right.

Mary O'Loan: Dr. Johnston is that right?

(Jill Johnston): Yes, yes, so yes, I open up the – I found the document. So yes, so 131 is the proportion matches within table 2 and then 132 is referring to the state wide analysis with no exclusion areas in which that we did not show the table in this report.

Mary O'Loan: OK, great. We're going to go to – I think so paragraph 140 in the complaint I think it's sort of repeat of that. The statewide proportion of African Americans living within three miles of an industrial line facility – statewide is 1.4 times higher than the proportion of non Hispanic white in that site, table 2 and in page – table 2 and page 6.

(Jill Johnston): Yes, I believe that's the – as the same (inaudible) one about matches that the table. In this report that is the study area and then 140 versus the statewide analysis.

Mary O'Loan: OK, 142. OK, so the next paragraph then is 142. Are we having the same issue here – the same thing going on. African Americans make up a larger portion – proportion of the population living in (inaudible) industrial

(inaudible) and the proportion of the population living within three miles away from any facility with disparity.

(Jill Johnston): I believe that (inaudible) right that the 20 percent of African American compared to 13 percent of non Hispanic white that live within three miles of a (inaudible).

Mary O'Loan: I'm sorry were you quoting again from paragraph 132?

Mariane Engelman Lado: What are you talking about 142?

Mary O'Loan: 142, OK, thank you.

Mariane Engelman Lado: (inaudible). And it doesn't provide the numbers. But I believe the reference seems appropriate.

Mary O'Loan: OK. And the statement is accurate? 142, OK. Now were moving to 148.

Mariane Engelman Lado: Yes, that's the same. That's in reference to the statewide analysis.

Mary O'Loan: OK and that's accurate?

Mariane Engelman Lado: Yes.

Mary O'Loan: And 150. That's 0.2. This is a – Yes, I believe that is correct.

Mariane Engelman Lado: OK. So I'm just trying to reach back and – and Dr. (Johnson) you may remember as well these reference to table 2 there are different ways of looking at them. And one maybe that we met kind of the report six provides the information. It's more like a see also table 2 with consistent results. But – but the other way of thinking and I remember that there were lots of charts and tables with the numbers.

And I think and again Dr. (Johnson) you may remember better than I. We may have taken some charts and tables out simply to make it all more

presentable because it was kind of too long and too much. And if we did could this table 2 could have referred to statewide analysis.

I just don't remember if there was an earlier job with more tables but I seem to have some vague recollection and if so that it may just be kind of type o. But again it's also perfectly consistent, you know, that we may have just thought it also supported by table 2.

(Jill Johnston): You're are correct that some variation of all these tables included everything from the study area analysis and then a repeat, you know, maybe like, you know, 2A and 2B or something. I don't know exactly how we weighted it out but sometimes the study area to the whole state analysis. So it could have drawn on that.

And maybe the different iterations change. We try to not have quite as many table.

Mary O'Loan: Well I'm – this is Mary. I'm beginning to think maybe it would be a good idea to send all the tables in because I know that, you know, there were some questions here about numbers and stuff. So we could certainly look for any tables that we had that included the statewide analysis which is the piece here and because, you know, if we have something.

Also, you know, as these tables were being developed Dr. (Ling) and Dr. (Johnson) may have gone back to the data and tweaked, you know, and found that there was a mistake that we included (inaudible) or we included something else that had to be cleaned. So I don't want to send over stuff that isn't correct, isn't final, right? But because – because they worked on this and I said before there was a lot of work going into refining the data and then refining the methodology.

So but what we can look to see if there were – I do have a recollection that we may have had some near final tables that might have included the statewide data. And we just thought it was too much. So if we have that we can

certainly send that over and we'll look for that. I'll put a star next to that as a to do.

Mariane Engelman Lado: All right, thanks and when – just asking. So the tables don't have headers on them. they're descriptive like the ones that are here. So table 1 is –

Mary O'Loan: I'm not sure were looking for a totally free standing table or is Dr. (Johnson) said it may have been this table was an additional column. And we just thought it was too confusing to have all that information in one column. It's that kind of thing.

So – so it would have a header, you know, if it were a near final version. But I just don't – it's a couple of years ago. And by the time the revisions came long it was more like using this 2014 version as a base so some of these questions weren't revisited again

So its two years ago and I'd have to look back and confer with Dr. (Johnson). But I think there maybe something that we can send over to you with statewide data.

Female: Yes, we may have to format I'm not sure all the information ended up in this final format but the version of the data available.

Mary O'Loan: OK, all right. So turning back –

Female: Just to be clear as I read this and Mary you can correct if you're looking for something that I'm not thinking or Dr. (Johnson) correct me if I'm wrong about this. But the data is actually in on page 6. It's just that it's not presented in, you know, in table 2 and the references from table 2 and that's a little confusing. So if we can find that so it I'm happy to do that. But it doesn't -- Dr. (Johnson) does it change any of your conclusions or is there anything different or new about that data?

(Jill Johnston): No, I think it's consistent with what we – with the table that we show. And that, you know, the number and the text and what seems to be in this complaint form are correct.

Mariane Engelman Lado: OK. So, you know, we wanted to – I'm looking at the clock it's five after four. But we wanted to, you know, March through sort of these paragraphs to have you, you know, do what you've been doing so far which is that it's saying yes, that's an accurate characterization of this – this table. And then, you know, after that we have a handful of other questions.

But I'm wondering if there's an easier way to do this than just doing it on the phone here so that we can move on to the other kinds of – the other questions that we have. Did you -- Dr. (Johnson), did you write these paragraphs that are in the complaint or did you – and or did you – did you write them? That's the first question.

(Jill Johnston): No, I did not write them.

Mariane Engelman Lado: OK. Did you review them all before they, you know, came to EPA?

(Jill Johnston): I reviewed a version of them. I can't say whether it was the final version or not.

Mariane Engelman Lado: Yes, here's what I'm trying to do. Mary and I think you probably see what I'm trying to do here. I just want to make sure that – that Dr. (Johnson) because she didn't write it. But she does agree with what it says.

And that's all I'm trying to do to make sure that now when we use it, you know, when we – if we were going to, you know, use the languages in here that it's – that we can adopt it just trying to (inaudible) here. Let me propose this since Dr. (Johnson) – we didn't know that this was what you're going to do and Dr. (Wing) also reviewed these paragraphs.

And well, you know, we may have six type o's after he reviewed it. He definitely reviewed the final version. I – but perhaps since we didn't expect this line of questioning and Dr. (Johnson) has a copy of the complaint after the phone call either if you can identify which paragraphs you want her to review –

Female: Sure.

Mariane Engelman Lado: And so you can look at them and we can follow up. And if there are any points of divergents of course Dr. (Johnson) should say so on those paragraphs. But (inaudible) have time to review them and she can get back to us.

Female: Yes, I think that's more efficient.

Mariane Engelman Lado: OK. OK, is that OK with you Dr. (Johnson)?

(Jill Johnston): Yes, I can do that.

Mariane Engelman Lado: OK. Which paragraphs is it or do you want to e-mail us?

Female: We're going to e-mail it. Yes. And we'll have to e-mail you the list.

Mariane Engelman Lado: OK, the next question is I think we're already gone. It's hasn't been – the study has – now we're moving off the, you know, this sticky thing and moving into more general questions. So the study hasn't been published. And you're checking Mary on whether it was provided to DEQ.

Mary O'Loan: Yes.

Mariane Engelman Lado: OK. And I don't think we need to answer the next two. Do you know has this been made public in other way?

(Jill Johnston): I believe that on Earth Justice Website.

Mariane Engelman Lado: On the Earth Justice Website?

Female: Is that correct?

Mariane Engelman Lado: OK, then maybe I will after next question. Are you aware of any of response or criticisms or critiques of the study, you know, that are out there?

Female: I am not and Dr. (Ling) hasn't shared any with me if he has received something.

Mary O'Loan: Mariane have – have you?

Mariane Engelman Lado: I'm thinking. To be – to be as – as complete as I can but I'm racking my brain and I – I don't think I have received any critique or response for the disproportionality analysis.

Mary O'Loan: OK, all right. Well, you know, if you do come across anything, let us know. OK, now – now I just wanted to talk about the 2000 study. And mainly it's the differences between the 2000 study and the 2014 study. And, you know, sort of why those changes occurred if you know the answer.

So, one of the changes was –

Mariane Engelman Lado: I'm sorry before you go in to that, I like you to just hold up the –

Mary O'Loan: Yes.

Mariane Engelman Lado: -- our Website and it's look the disproportionality analysis is available through our Website.

Female: Not on the Website?

Mariane Engelman Lado: Not on our Website? Where?

Female: North Carolina Policy Watch.

Mariane Engelman Lado: North Carolina Policy Watch.

Mary O'Loan: OK. Complaint or the study?

Mariane Engelman Lado: The study.

Mary O'Loan: OK, good, OK.

Mariane Engelman Lado: But – OK, then if you heard that the 2014 analysis seems to be available on North Carolina Policy Watch. We – just also so, you know, this is a little bit of an (inaudible) from this interview but we have not generally made available the declarations to the press or to other people. We – we in general when we've got an inquiries we will call the declarant that might have information responsive to an inquiry.

And ask whether it's OK if we share their declaration even for people who did not ask to have their information anonymous. I mean it's anonymously and – and as, you know, there was – that – that there was that category as well. But we are, you know, -- we are respectful of people's courage and concerns about retaliation and so we've been very careful not to just throw everything up on the Website.

And it doesn't run to the disparities analysis but we haven't just put all the exhibits up on our Website or in any other place. So, that's – that's part of the backdrop as to why I'm not clear to where we sent what.

Mary O'Loan: OK. Did North Carolina Policy Watch just picked this up off of your Website? So, I'm wondering, so you said you haven't received any critiques. I guess I'm wondering or criticisms or, you know, any – anything not off the wall. Could it have gone in to –

Mariane Engelman Lado: North Carolina –

Mary O'Loan: North Carolina Policy Watch.

Elizabeth Haddix: It's a – this is Elizabeth.

Mary O'Loan: Yes.

Elizabeth Haddix: North Carolina Policy watch picked up the complaint from the centers Website and I'm not recalling any discussion that I had with them. But it would not surprise me at all because they're – they are investigative journalist that they would dig in to studies referenced in the complaint and share this with the public. So, in that – since the 2014 study, I mean it was not confidential, it's not surprising that they posted it on their Website.

Mary O'Loan: And Dr. (Ling) may have been talking to members of the public and providing copies since it wasn't confidential.

Mary O'Loan: OK.

Elizabeth Haddix: I'm pretty sure that they had also posted the 2000 report a long time – years ago.

Mary O'Loan: Right.

Elizabeth Haddix: So, it – it could be also that they've just been practicing Dr. (Wing's) work so.

Mary O'Loan: Do you have a relationship with them or they just pick your stuff up and – and they put it up there. Because what I'm wondering is whether they were on the receiving end of anything legitimate as far as the critiques.

Elizabeth Haddix: I do – we do have a relationship with them (inaudible) relationship with them so

Mary O'Loan: Yes, we, you know, we're interest – we are interested in it. I mean we're going to look to but we don't know what, you know, if they curate their site or

what happened. So, we would be interested if – if they happened to have anything.

Elizabeth Haddix: I'll find out.

Mary O'Loan: OK, sure, great. Thank you. OK so – so circling back Dr. (Johnson) to the – to the 2000 study and some of the changes in the methodology from that study to the 2014 study. One of the things that was discussed in the 2000 study had to do with well water. And looking at those that were – you know, somehow including those and now I can't remember because I'm – I'm looking for it now.

But that was taken in to account but that wasn't discussed in the 2014 study.

Female: So, my understanding in that report they looked at sort of three different vulnerable populations. One being racial and ethnic minorities, one, do you know looking at people living poverty. And a third looking at people who are relied on well water, but so – the – they all of three variables we're not included in one model because they were sort of three parallel analysis that looked at the correlation between those different categories stick to the population and proximity put to (inaudible).

Mary O'Loan: OK. And the well water components wasn't done in 2014, do you know – is there a lead in –

Female: Yes, I mean so specifically we kind of prioritize looking at racial and ethnic disparities in that analysis. And just – just a limited focused specifically on that issue. But also – so the 1990 census included information about people's drinking water resources. But the best of my knowledge that is the last census that included that data so if we wanted to look at data in, you know, in the 2020 start (inaudible) the 2010 census.

They did not include questions asking about drinking water.

Mary O'Loan: All right, great, thank you.

Mariane Engelman Lado: It's like this is Mariane if I could just interject, so because this is – this was not a general study for the general public but a study to test whether there was a racial disparity related to the general permit. The – the request was to examine that question whether there are disparities on the (inaudible) and ethnicity. So, you know, there's a difference between doing a study, you know, for the general inquiry of, you know, of vulnerable populations and – and their relationship to (inaudible) and looking in to the relationship on the basis of race and ethnicity and whether the civil rights law is violated.

So, it was really a question as to whether or not there was a disparity that cognizable under the civil rights law that, you know, that Dr. (Ling) and – and Dr. (Johnson) generously took up. So, that you know, -- that's a big part of it here.

Mary O'Loan: OK. Yes, I – I understand what you're saying Mariane. OK, the – so the next question it has to do with the distance and we talked about a little bit earlier. And I think that 2000 study did one and two mile buffers and now this one goes to three so can you – can you – and the next one has to do – the next question I have has to do with the measurement. The idea of moving off the buffer zones around the – since the black group area to using the center.

So, I mean maybe it's all related but if you could explain that.

Female: Yes, yes so a major difference between the – for the special approach that we took in these two different reports is in the 2000 reports they relied on black groups.

And so here there was a little over 4,000 black groups included I believe in the study area. And so, with our report we have over 200,000 blocks in our study area. So, the size of the blacks and the size of the black groups are very different especially in rural areas because they sort of and acrid to have, you know, similar types of populations in terms of counts in the – in these different census like geographic areas. And so rural areas the black groups tend to be very big and so – so they were looking at the – the principal

analysis in this 2000 report wanted to see if there was any (inaudible) in the black groups.

And that as sort of a sensitivity approach because, you know, you can have (inaudible) right in the corner of a black group and so that could impact it's neighboring black groups as well or a proportion of that population. So, as a sensitivity approach they also look at, sort of one mile around the black group and then two miles around the black group and included, you know, the category of whether or not it was near a (inaudible) or it's adjusted based on those parameters.

So, in contrast when you look at blocks, I don't remember the exact number but, you know, there's a little over 2,000 (inaudible) in the state so if we were just to assign exposure based on whether or not there was a (inaudible) in the block, you know, that went down to like fewer than a thousand blocks because they're just much smaller. And so for – for this analysis it – when – when you're using blocks as your unit of analysis then – then you need to consider I mean we believe it's important to consider a buffer zone around it because we know how chemicals can travel off site.

And so, you know, using evidence a lot of papers that have been published since 2000 we sort of relied on a – a three miles buffer for the 2014 report. But that is – I mean the – the special scale of the few are just – it was very different and so that's part of these and issue their difference in what kind of buffers, what considers.

(Jill Johnston): Let – let me ask what – and this is (Jill) so I'm – I'm understanding that you all looked the blocked group and you still considering I guess the travel, the air emissions of H₂S, you all didn't overlay on this one as well to come up with that distance.

Female: On the 2000 report?

(Jill Johnston): Yes.

Female3: So, the choice of the one and two mile buffers I can now specifically speak to.

(Jill Johnston): OK.

Female: As our part – I believe the data presented here in the table don't specifically include the buffer zone but that was used as a sensitivity analysis. So, if we included these buffers or change their definition of exposure with the patterns that we changed and – and from my understanding of this report, you know, the patterns were – were consistent but I believe the tables show rely on the definition of that blocked group is exposed if there's a capo in that blocked group.

(Jill Johnston): I'm going to repeat that. So, you're saying the block group is exposed if there is a capo in that blocked group?

Female: Yes, that was the primary definition of the analysis from – from my understanding in this 2000 report.

Mary O'Loan: And the one and two mile buffer around the block group was not that populations were measured one and two miles outside of that blocked group? For some other reason.

Female: Yes, so it would take – so perhaps there would be no capo in a block group.

Mary O'Loan: OK.

Female: But if you do a one mile buffer around it there would be a capo. So, under that condition you would include that block group as this population is exposed to a capo. And – it doesn't specify I assume because it's block group that's using like around the – one mile around the buffer rather one mile from the centroid.

Mary O'Loan: Yes.

Female: Because – you know, because block groups are so much bigger so – so you wouldn't get much outside the borders with that definition.

Mary O'Loan: Dr. Johnston –

Female: Yes.

Mary O'Loan: And so just to – just to make sure I have it and it's clear when you say you would include that (inaudible) that's in the buffer off to two miles away in exposure that would be in the sensitivity analysis but not in – I don't know what you call it but the core analysis.

Female: Yes, that's how, you know, I don't want to say 100 percent because I do not make these tables. But as I read this paper and how I understand the data presented is they're not using the – the buffered definition. They're – they're just using the category of whether or there's an (inaudible) inside the block group.

Mary O'Loan: OK, OK, anybody else? All right so the next question and Mariane, I think this probably goes back to what you've already said but. Why was poverty omitted this time?

Female: Yes, I think it goes back to the same point is that we were, you know, looking at – at criteria that were considered under the – the civil rights act.

Mary O'Loan: OK.

Female: And – and so, you know, poverty not being one of those classes considered we didn't included it in the analysis.

Mary O'Loan: OK. Are there any other differences that you by chance know about between 2000 and the 2014?

Female: I mean, you know, the – how we assigned which people were exposed. We're different also this analysis includes all commercial (inaudible) in the state of

North Carolina whereas the 2014 we restricted to those (inaudible) that are covered under the general permit. So, it does not include ones under the individual permits or under (inaudible).

Mary O'Loan: OK. Didn't you Dr. Johnston, explain what you mean by how the – how people are assigned. Are you referring to the use of quintiles and can you explain what the significance of that is.

(Jill Johnston): Yes, so actually now as (inaudible), you know, it was – you're considered to be exposed to a (inaudible) if you live in a block group with the (inaudible). You know, whereas in our – in our 2014 report, you're considered to be exposed to a (inaudible) if you're – the centroid of your block is within three miles of (inaudible).

Mary O'Loan: Right.

(Jill Johnston): But, yes, here also the – we – we take a similar approach to using your (inaudible) variables to account for non-linearity in the relationship between, you know, racial composition and proximity or exposure to (inaudible). But in this 2000 analysis they divide the group so that in each of the prior groups there's an equal number of block groups in it. So, that's how they defined their power point. So, for example like the – what was quintile is (inaudible) at 2.3 percent, the highest quintile more than 44 percent people of color.

Whereas in the updated (inaudible) we used partly just – because we thought it was a little bit more intuitive and easier to understand. We categorized the percent people of color in to equal – like equal percentages.

So, our reference group was the (inaudible) percent people of color because that was a high percentage of population where they live in blocks with no people of color and then divided it from, you know, more than (inaudible) with the 20 – 20 to 40 in this group of 20 percent. Because it's – it's a low risk I think easier to communicate rather than having to talk about, you know, that quintile versus that quintile and also because then we're able to look at, you know, these census blocks that are majority people of color.

Mary O'Loan: So, Dr. Johnston so that the – just a follow up on that. So, that if you used quintile it would have – would you – it would have been difficult to say anything meaningful about the effect of living in a – over 60 percent versus over 80 percent people of color community but using your methodology you could get more granular on that basis? Is that – is that right? I didn't hear the answer.

(Jill Johnston): I'm sorry. Yes, that is correct.

Mary O'Loan: OK. OK. Anybody else have any other questions, comments? OK. So, the 2000 study and – and, you know, maybe you – you may not be able to answer this but are you aware of any criticisms of that study. So, I think that – wasn't that submitted in one of the general permit processes? So, I'm wondering if they got more play in the outside world then if, you know, what reaction there may have been to that that you're aware of or critiques?

(Jill Johnston): I mean it was polished and as I know how pushed back is with this, you know, I had quality journal and environmental house codes went to the pair of new process. But I can't speak to any of critiques of it.

Mary O'Loan: OK. All right, where are we now? I think we're close to wrapping up here. we have a general – one – one last – one question here is the – is the generic one that's – that's all experts get asked and you probably seen it on TV which is the – you know, were you compensated for doing the study.

(Jill Johnston): No. No, I was not.

Mary O'Loan: OK. And the other question I have – I heard somebody laughing we're wondering if – if you had worked with Dr. (Ling) on any other studies related to swine and – and swine farms of North Carolina.

(Jill Johnston): Yes, I worked with him and also Dr. (Getri) around that analysis of hydrogen sulfide concentration near middle schools in Eastern North Carolina which was recently published.

Mary O'Loan: OK, that was – I think that is in your CV or was referenced on your CV, is that right?

(Jill Johnston): Yes, yes.

Mary O'Loan: And – and I was just going to interject here that that work and – and (Dr. Johnson's) experience working on studies generally community based participations studies and other work in the community on which she might base opinions about the adverse impact of – of swine (inaudible) could be subject to another interview as we kind of went back and forth on – that wasn't the premise of this interview but –

(Jill Johnston): Right.

Mariane Engelman Lado: But she's generously said that, you know, if – if she knows in advance that she'd be more than happy to talk to you about that body of work in the research associated with it.

Mary O'Loan: OK, that would be great. Did – did the hydrogen sulfide study get submitted with the materials you sent in April Mariane?

Mariane Engelman Lado: Yes, it is the study that is – it was confidential at the time but it is since been published. So, it – it's – it exhibit but it also says it's confidential.

Mary O'Loan: OK, so –

Mariane Engelman Lado: It was pre-publication at that point.

Mary O'Loan: We have a – the – I'm trying to find – do we can – can send up the publication copy just to make it easy?

Mariane Engelman Lado: Yes.

Mary O'Loan: For us the – the published version, that would be great. You have any other questions right now, do you have another one?

Female: I don't think so.

Mary O'Loan: Is there – is there anything else that – that you wanted to add Dr. Johnston?

(Jill Johnston): You don't – no, I don't believe so, I think if you have a chance to review or update the report then I'm happy to answer any questions or if there are any clarifications related to that but if – if I was a pretty parallel structure that you have we just refined the which (inaudible) we're in included in the analysis.

Mary O'Loan: OK , and so, yes, and I'm kind of thinking Mariane since I haven't had a chance to look at it that, you know, how we were going to send you the paragraph that we wanted to do. I have a feeling we're going to – we have to fix because we have to switch it now to the – to the newer study. So, there's a newer study – what you submitted Mariane, is it going to include – is it's just a new study or do you have a cover letter that it's like the complaint that goes through and, you know, here's the – here's the layman, you know, description of what is in – the support.

Mariane Engelman Lado: So, it's a little bit of a hybrid in the sense that we have the complaint and we're – we're filing additional submission in support of the allegations in the complaint. We don't amend the complaint and say this goes to paragraph 132, we rather are just submitting additional documentation in support of those allegations. So, there is a – a short cover letter but it's not – it's not lengthy and, you know, doesn't go in to which paragraph that it's supports.

Mary O'Loan: OK.

Mariane Engelman Lado: OK, the other thing I was thinking might be useful since we're ending up a little bit early which is good is just to say a little bit more about Dr. Johnston experienced, you know, and background and expertise on methodological issues and, you know, -- and of course it's (Todd) or -- or

research done or either you have her CV and I think Jeryl Covington asked some questions earlier on but if you have any questions out that are – or I would just open up to Dr. Johnston to say a few more words about whether you have taken any courses or have any special training or expertise on methodology in epidemiology and public health.

(Jill Johnston): Sure. I mean because the starting point is, you know, that's – that was not submitted to the (inaudible) process but there's a recent publication that – that are authored in the American Journal of Public health. That – so the uses are very similar approach to a racial disparities analysis. It's around a different topic looking at waste water disposal wells in – in South Texas so not related to industrial animal operations. But, you know, when did the peer review process used (inaudible) data and – and a very similar approach to that.

So, there is, you know, some of – some of that sort of expertise and – and credentials in the peer reviewed literature that – that is similar methods to what we're doing here in this paper. You know, but also, yes I mean I do have fairly expensive course work and the – these different types of – of progression modeling epidemiological study designed and also just quantitative data analysis process like both in, you know, in biostatistics and epidemiology and then also in the (inaudible) metrics.

And – and then, you know, I had a two year post doctoral fellowship and environmental epidemiology and – and co-taught class with Dr. (Ling) specifically on community based epidemiological methods and environmental justice.

Mariane Engelman Lado: OK, well thank you actually that was helpful particularly to the reference to the West Texas or the – the –

(Jill Johnston): Yes, so (inaudible) I mean I can send it to you but it's also included in my CV and, yes maybe helpful I – I think it's from critiques on – on the – from the oil industry but nothing that – that was really methodological driven but – but yes that can – it's – it's a reference in the peer review literature that's – that takes a

very similar approach to – to had it analyze data in a racial disparities analysis as (inaudible).

Mary O'Loan: OK, is it – is it easy for you to send us that report that because that – that –

(Jill Johnston): Yes.

Mary O'Loan: -- I think that would be helpful and then –

(Jill Johnston): Then maybe I could send it to Mariane and then – and in her package she can share with you.

Mariane Engelman Lado: Yes.

Mary O'Loan: Great. And the – the oil and gas industry comments or response or whatever you want to call it. How – like what form did that take?

(Jill Johnston): It came out to a reporter that shared it to me – with me.

Mary O'Loan: Can – would you be willing to share that as well?

(Jill Johnston): Yes, let me – let me review it but probably –

Mary O'Loan: OK. OK, did anybody else have any questions at this point? OK. So, we – we have some follow up, we have some things to give you, we'll wait for your list of paragraphs as well and exchange information and then it's sounds like on – on the – the follow up report that was submitted this year as well as the more recent study as well as other studies and work on the adverse impacts we should schedule another interview time.

And we can try to do that relatively quickly I think if – if you like so let's try to get that all under way.

Mariane Engelman Lado: Yes, I think we'll have to – to get back to you on that.

Brent Ducharme: Yes, yes Mariane what I – what I have identified so far is that you will be sending after you review the background, the statewide study so that we can correlate the tables and the statewide data that you have in the – in the report. We will follow up on whether that questions for the paragraphs are relevant. We need to review the data that you just sent to us on April 12, 2016 to see if those questions have been answered. So, we'll have to review that e-mail and I did receive those e-mail submission.

So, let us look at that and then we'll probably coordinate amongst ourselves on the follow up interview with Dr. Johnston and yourself.

Mariane Engelman Lado: Sure (inaudible) if you could send me some dates. I – I think what we said on the statewide data is if there are final charts again, I think it's just a reference problem and the complaint to this table to –

Brent Ducharme: Yes.

Mariane Engelman Lado: If there was another table too with the state wide data or another table with the state wide data or another column in an earlier draft that, you know, sufficiently well along, we'd be happy to send it to you.

Brent Ducharme: OK.

Mariane Engelman Lado: But we will – we'll look for that and get back to you on that.

Brent Ducharme: OK. And the – the follow up we did receive in the April 12 submission the (inaudible) report that is marked confidential and I think you're going to submit that after publication without the confidential reference to it.

Mariane Engelman Lado: Correct.

Brent Ducharme: And Dr. Johnston is going to do the supplementary information on the oil and gas disparity analysis literature to you and then you'll subsequently submit that to us.

Mary O'Loan: So, I think it would be the publication as well as she's going to review the feedback she got to see if it's appropriate to forward.

Mariane Engelman Lado: Right.

Brent Ducharme: Right. OK.

Mariane Engelman Lado: Terrific. OK, OK. Thank you.

Mary O'Loan: Yes, I think that's it for now.

(Jill Johnston): OK.

Mariane Engelman Lado: OK.

Mary O'Loan: All right thank you very much and thank you Dr. Johnston.

(Jill Johnston): All right thank you.

Mary O'Loan: OK, bye-bye.

Operator: The leader has disconnected, the conference will now end.

END

END



Office of Civil Rights
REACH Complaint Meeting
April 20, 2016 · 3:00 a.m. – 4:00 p.m.
WJC North Conference Room 2528

Conference Number- **Ex. 6 - Personal Privacy**

Agenda

1. Review potential theories of case
2. Interviews of Dr. Johnston & Dr. Wing
 - a. dates & times
 - b. participants
 - c. questions
3. Discuss "asks" for OAR & OW related to studies.
4. Review RFI & DOJ proposal.
5. Meetings with DOJ - statistician review of Wing study & RFI.
6. Coordination with DCROs.
 - a. vehicle -- meetings, email updates
 - b. loop in R4
 - c. any others beyond R4, OAR, & OW?
7. Review case management plan

Notes

- _____
- _____
- _____

To: Utting, George[Utting.George@epa.gov]
Cc: Shapiro, Mike[Shapiro.Mike@epa.gov]; Wiedeman, Allison[Wiedeman.Allison@epa.gov]; Nagle, Deborah[Nagle.Deborah@epa.gov]; Brennan, Ross[Brennan.Ross@epa.gov]; Farrell, Ericka[Farrell.Ericka@epa.gov]; Dorka, Lilian[Dorka.Lilian@epa.gov]
From: O'Lone, Mary
Sent: Mon 4/18/2016 2:53:57 PM
Subject: Re: Urgent need for OW contact for OCR Complaint 11R-14-R4 - CAFO Complaint

Great. Likely a little later this afternoon.
Thanks, Mary

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

From: Utting, George
Sent: Monday, April 18, 2016 9:53 AM
To: O'Lone, Mary
Cc: Shapiro, Mike; Wiedeman, Allison; Nagle, Deborah; Brennan, Ross
Subject: RE: Urgent need for OW contact for OCR Complaint 11R-14-R4 - CAFO Complaint

Hi Mary.

Please feel free to contact me concerning this matter. I can be reached by email or by phone at

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

George Utting
Water Permits Division (MC-4203M)
U.S. EPA, 1200 Pennsylvania Avenue, NW,
Washington, DC 20460-0001
(202) 564-0744 / Fax (202) 564-6384

-----Original Message-----

From: Wiedeman, Allison
Sent: Monday, April 18, 2016 9:20 AM
To: Utting, George <Utting.George@epa.gov>; Nagle, Deborah <Nagle.Deborah@epa.gov>; Brennan, Ross <Brennan.Ross@epa.gov>
Cc: Shapiro, Mike <Shapiro.Mike@epa.gov>
Subject: RE: Urgent need for OW contact for OCR Complaint 11R-14-R4 - CAFO Complaint

Thanks kGeorge - please keep my posted. You might go ahead and contact Mary - Deborah is out this week

Allison Wiedeman
U.S. Environmental Protection Agency

Chief, Rural Branch
Water Permits, Office of Water
Rm 7146 EPA East
Washington, D.C. 20460
202 564 0901

-----Original Message-----

From: Utting, George
Sent: Monday, April 18, 2016 8:07 AM
To: Nagle, Deborah <Nagle.Deborah@epa.gov>; Brennan, Ross <Brennan.Ross@epa.gov>
Cc: Shapiro, Mike <Shapiro.Mike@epa.gov>; Wiedeman, Allison <Wiedeman.Allison@epa.gov>
Subject: RE: Urgent need for OW contact for OCR Complaint 11R-14-R4 - CAFO Complaint

Yes. I am available and can help.

As I recall, we were involved tangentially in this matter as a result of the FOIA we received from Ex. 6 - Personal Privacy in February 2015.

Let me know if you would like me to contact Mary. Otherwise, I can be reached by email or by phone at

Ex. 6 - Personal Privacy

George

George Utting
Water Permits Division (MC-4203M)
U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460-0001
(202) 564-0744 / Fax (202) 564-6384

-----Original Message-----

From: Nagle, Deborah
Sent: Sunday, April 17, 2016 5:53 PM
To: Brennan, Ross <Brennan.Ross@epa.gov>; Utting, George <Utting.George@epa.gov>
Cc: Shapiro, Mike <Shapiro.Mike@epa.gov>; Wiedeman, Allison <Wiedeman.Allison@epa.gov>
Subject: Re: Urgent need for OW contact for OCR Complaint 11R-14-R4 - CAFO Complaint

George

I know you are working off site, but can you provide some assistance to Mary O'loné on the NC title VI complaint in Louis' absence. Please let me know

Deborah

Sent from my iPhone

> On Apr 17, 2016, at 5:34 PM, Shapiro, Mike <Shapiro.Mike@epa.gov> wrote:

>

> Deborah,

>

>

> See the note below from Mary O'Loné, who is requesting some assistance in Louis' absence with respect to the North Carolina Title VI complaint. Is there anyone who could provide some short term help over the next few days?

>

>

> Mike

>

>
>
> From: O'Lone, Mary
> Sent: Friday, April 15, 2016 4:46 PM
> To: Shapiro, Mike
> Cc: Dorka, Lilian; Golightly-Howell, Velveta; simons.vickie@epa.gov;
> Temple, Kurt; Farrell, Ericka
> Subject: Urgent need for OW contact for OCR Complaint 11R-14-R4 - CAFO
> Complaint
>
>
> Mike-
>
> I was going to email Louis who you'd given Velveta as the OW contact, but I see he is out of the office until next Thursday. We've just been notified today that Dr. Steven Wing, the author of the disproportionate impact study Earthjustice submitted in the NC swine CAFO Title VI complaint
> Ex. 6 - Personal Privacy If he is able to speak with OCR, it will likely be in the next two weeks.
> Ex. 6 - Personal Privacy
>
> While Dr. Wing's disproportionate impact study (I have attached it as FYI) is not focused on water issues per se, another recent study he authored (which I don't yet have a copy of) that is discussed in this article is. The article lays out some basic critiques of Dr. Wing's water study by the pork industry.
> <http://www.scientificamerican.com/article/pig-poop-fouls-north-carolina-streams/>
>
>
> Is there someone we can speak with in OW early next week to help us
> prepare for the interview. Thanks so much, Mary
>
>
> Mary O'Lone
>
> Civil Rights and Finance Law Office
>
> Office of General Counsel
>
> US EPA
>
> 1200 Pennsylvania Ave., NW
>
> Washington, DC 20460
>
> (202) 564-4992
>
>
>
>
> From: Shapiro, Mike
> Sent: Sunday, March 13, 2016 9:32 PM
> To: Golightly-Howell, Velveta; Shaw, Betsy; Starfield, Lawrence
> Cc: Dorka, Lilian; Covington, Jeryl; Farrell, Ericka; Temple, Kurt;
> Packard, Elise; Rhodes, Julia; O'Lone, Mary; Harrell, Collette; Eby,
> Louis; Nagle, Deborah; Simons, Vicki
> Subject: RE: EPA OCR Complaint 11R-14-R4 (ADR)
>
>
> Velveta,
>

>
>
> Louis Eby will serve as the OW POC for this case.
>
>
>
> Mike
>
>
>
> Michael Shapiro
>
> Deputy Assistant Administrator, Office of Water
>
> US EPA, 4101M
>
> 1200 Pennsylvania Ave., NW
>
> Washington, DC 20460
>
> 202-564-5700
>
>
>
> From: Golightly-Howell, Velveta
> Sent: Wednesday, March 09, 2016 11:58 AM
> To: Shaw, Betsy <Shaw.Betsy@epa.gov>; Shapiro, Mike
> <Shapiro.Mike@epa.gov>; Starfield, Lawrence
> <Starfield.Lawrence@epa.gov>
> Cc: Dorka, Lilian <Dorka.Lilian@epa.gov>; Covington, Jeryl
> <Covington.Jeryl@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>;
> Temple, Kurt <Temple.Kurt@epa.gov>; Packard, Elise
> <Packard.Elise@epa.gov>; Rhodes, Julia <Rhodes.Julia@epa.gov>; O'Lone,
> Mary <o'lonemary@epa.gov>; Harrell, Collette
> <Harrell.Collette@epa.gov>
> Subject: EPA OCR Complaint 11R-14-R4 (ADR)
>
>
>
> Hello Betsy, Mike and Larry. I'm writing to let you know that Marianne Lado Engelman of Earthjustice, the lead representative for complainants, has contacted me regarding REACH. the Title VI discrimination complaint which alleges race and national origin discrimination related to swine feeding operations in North Carolina. Ms. Lado Engelman advised that the complainants have concluded that ADR is unproductive; they therefore request that OCR reinstate its investigation. In requesting recommencement of the investigation, Ms. Lado Engelman stated:
>
>
>
> "Finally, we wanted to mention that our initial mediation session was interrupted by an effort by the National and North Carolina Pork Councils to interject themselves into the mediation process. Despite the terms of ADR, which included a requirement that mediation be confidential, and despite our clear opposition to their self-styled "motion to intervene" in the complaint and mediation process, five representatives from the Pork Council appeared without notice to Complainants at the first mediation session. Their presence and insistence at playing a role in mediation delayed the start of our session and acted as a form of intimidation of our clients. Representatives from DEQ failed to object to the behavior. Indeed, quite the opposite, they tried to persuade Complainants to consent to bringing the Pork Councils

into mediation. We thought it was relevant and important to bring these events to your attention.”

>

>

>

> FYI, in response to the councils' request to intervene in ADR, in or about January, I notified the requesters that the parties would have to agree to include them and that OCR does not participate in ADR. Ms. Lado Engelman was copied on the response.

>

>

>

> As ADR has ended, OCR will relaunch its complaint investigation. Shortly after OCR began the investigation, you provided POCs for your office. We realize that they may have changed. Would you please provide the names of current POCs ASAP and by Friday, 3/18?

>

>

>

> Thank you for your ongoing assistance!

>

>

>

> Velveta

>

>

>

> Velveta Golightly-Howell

>

> Director, Office of Civil Rights

>

> Environmental Protection Agency

>

> 1200 Pennsylvania Avenue, N.W.

>

> Mail Code 1201A

>

> Washington, DC 20460

>

> 202-564-6685

>

>

> <Wing 2000 CAFO study.pdf>

To: Dorka, Lilian[Dorka.Lilian@epa.gov]; Farrell, Ericka[Farrell.Ericka@epa.gov]
Cc: Covington, Jeryl[Covington.Jeryl@epa.gov]; Johnson, Johanna[Johnson.Johanna@epa.gov];
Rhodes, Julia[Rhodes.Julia@epa.gov]
From: O'Lone, Mary
Sent: Mon 4/18/2016 12:35:37 PM
Subject: 2 REACH meetings today
REACH draft RFI 3 25 2016 to DOJ with FCS comments.mmo.doc

All-

I just sent an invite for 11:30 so we can talk about the potential interview with Ex. 6/7(c) - Privacy
It would be a good idea to develop a limited list of questions for him in priority order
ASAP. We may even want to think about sending them to him in advance. I think it
would be a good idea to talk about the draft RFI as well so we can get it out. Here is the
draft that contains DOJ's comments and inserts.

I cannot for the life of me figure out how to put page numbers in that that start with 1 on
the first page of the RFI.

Also, we have a call this afternoon with OAQPS to talk about Dr. Wing's 2014 study &
the work OAR & ORD have been doing on estimating CAFO emissions.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992



Office of Civil Rights
REACH Complaint Meeting
September 8, 2016 · 3 p.m. – 4 p.m.
WJC North Conference Room 2528

Conference Number- **Ex. 6 - Personal Privacy**

Agenda

1. Response from NCDEQ
2. Poultry allegation
 - a. Including in current investigation
 - b. OCR look at separately
3. Pathways to resolving complaint
 - a. What are we going to investigate
 - i. Everything
 - ii. Scope of Authority
4. Timeline
5. Update from R4
 - a. coordinating requests for assistance
 - b. NC DEQ response to retaliation allegation.
6. Meeting with Community
7. Investigation Plan
 - a. Pros and cons in IP?
8. Outstanding items OCR requested from Earthjustice

Notes

- _____
- _____
- _____

To: Dorka, Lilian[Dorka.Lilian@epa.gov]; Wooden-Aguilar, Helena[Wooden-Aguilar.Helena@epa.gov]
From: O'Lone, Mary
Sent: Wed 1/13/2016 11:29:40 PM
Subject: FW: REACH CASE - SUSPENSION OF INVESTIGATION PENDING ADR -- FOR REGIONAL REVIEW/INPUT
REACH VAN DER VAART EPA FILE NO 11R-14-R4 ADR (VGH Edits-Comments 12 04 2015) (2).docx
LAD0 AND D'AMBROSIO - EPA FILE NO 11R-14-R4 ADR (VGH -3 12.04.2016).docx

Can you please send me the final versions of these letters. I don't think I ever got them. Trying to write the response to Pork Council. Thanks.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

From: Dorka, Lilian
Sent: Wednesday, December 09, 2015 8:04 PM
To: Lapierre, Kenneth <Lapierre.Kenneth@epa.gov>
Cc: Tommelleo, Nancy <Tommelleo.Nancy@epa.gov>; Golightly-Howell, Velveta <Golightly-Howell.Velveta@epa.gov>; Pich, Luseni <Pieh.Luseni@epa.gov>; Reeder, John <Reeder.John@epa.gov>; Rhodes, Julia <Rhodes.Julia@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; O'Lone, Mary <o'lonemary@epa.gov>; Covington, Jeryl <Covington.Jeryl@epa.gov>; Wooden-Aguilar, Helena <Wooden-Aguilar.Helena@epa.gov>
Subject: REACH CASE - SUSPENSION OF INVESTIGATION PENDING ADR -- FOR REGIONAL REVIEW/INPUT

Hi Ken, hope you and our Region 4 colleagues are well! Consistent with the collaborative efforts described in the CRM and which we all had the opportunity to discuss with DCROs

recently, we will be sharing key documents (and other information at key decision stages) with our DCRO partners for input. (This is our first time actually implementing this as a “process” per the CRM.)

Ex. 5 - Deliberative Process

We plan to issue the letters by Tuesday morning, 12/15. We would really appreciate it if you could let us know if you have any comments/questions before then. Otherwise, we will issue the letters.

Thanks very much for your help! Lilian

To: Dorka, Lilian[Dorka.Lilian@epa.gov]
Cc: O'Lone, Mary[OLone.Mary@epa.gov]
From: Wooden-Aguilar, Helena
Sent: Wed 1/7/2015 2:28:27 PM
Subject: Re: Updated draft REACH jurisdictional review letter

I am still on the train. I am backed up in the train.

Helena Wooden-Aguilar
Assistant Director
External Civil Rights - US EPA
202-564-0792 (office)

Ex. 6 - Personal Privacy

wooden-aguilar.helena@epa.gov

On Jan 7, 2015, at 9:27 AM, "Dorka, Lilian" <Dorka.Lilian@epa.gov> wrote:

Finally just got to my desk Mary and Helena. If you rearranged with Patrick, we can meet at 9:30. Thanks!

From: O'Lone, Mary
Sent: Wednesday, January 07, 2015 9:23 AM
To: Dorka, Lilian
Cc: Wooden-Aguilar, Helena
Subject: RE: Updated draft REACH jurisdictional review letter

I have arranged to take the time at 9:30 that you have with Patrick & Collette. Theirs wasn't urgent & will reschedule. I had same metro problem. Call me when you get in.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

From: Dorka, Lilian
Sent: Wednesday, January 07, 2015 9:13 AM
To: Wooden-Aguilar, Helena; O'Lone, Mary
Cc: O'Lone, Mary
Subject: Re: Updated draft REACH jurisdictional review letter

One more stop to go,,,

Sent from my iPhone

On Jan 7, 2015, at 8:58 AM, Dorka, Lilian <Dorka.Lilian@epa.gov> wrote:

Still sitting in the tunnel.

Sent from my iPhone

On Jan 7, 2015, at 8:47 AM, Dorka, Lilian <Dorka.Lilian@epa.gov> wrote:

Unfortunately still not moving. Now sitting still going on half hour.

Sent from my iPhone

On Jan 7, 2015, at 8:39 AM, Wooden-Aguilar, Helena <Wooden-Aguilar.Helena@epa.gov> wrote:

Thx. I running late so I will join when I arrive. If I don't make it I will catch up with the DD.

Helena Wooden-Aguilar

Assistant Director

External Civil Rights - US EPA

202-564-0792 (office)

Ex. 6 - Personal Privacy

wooden-aguilar.helena@epa.gov

On Jan 7, 2015, at 8:34 AM, "Dorka, Lilian" <Dorka.Lilian@epa.gov> wrote:

Hi Mary. I am sitting on the metro for 20 mins now w a "downed train up ahead of us". They keep saying we will be moving shortly. So I still expect to make it to our 9 am meeting. Thx. Lilian

Sent from my iPhone

On Jan 6, 2015, at 7:04 PM, O'Lone, Mary <OLone.Mary@epa.gov> wrote:

Lilian & Helena-

I have updated the draft that was given to Avi back in December to accept the changes that had been suggested in that draft on the assumption that those edits were fine since no comments or wordsmithing had come back on those edits.

Through track changes you will now see changes I made tonight to incorporate the comments Lilian's gave me this evening. The changes are not substantive changes, they just provide some needed clarification.

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Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

<REACH 11R-14-R4 Acceptance Letter - Draft (1 7 2015)
mmo.doc>

To: Dorka, Lilian[Dorka.Lilian@epa.gov]
Cc: Rhodes, Julia[Rhodes.Julia@epa.gov]
From: O'Lone, Mary
Sent: Wed 1/7/2015 2:27:50 PM
Subject: RE: Updated draft REACH jurisdictional review letter

Coming down now.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

From: Dorka, Lilian
Sent: Wednesday, January 07, 2015 9:27 AM
To: O'Lone, Mary
Cc: Wooden-Aguilar, Helena
Subject: RE: Updated draft REACH jurisdictional review letter
Importance: High

Finally just got to my desk Mary and Helena. If you rearranged with Patrick, we can meet at 9:30. Thanks!

From: O'Lone, Mary
Sent: Wednesday, January 07, 2015 9:23 AM
To: Dorka, Lilian
Cc: Wooden-Aguilar, Helena
Subject: RE: Updated draft REACH jurisdictional review letter

I have arranged to take the time at 9:30 that you have with Patrick & Collette. Theirs wasn't urgent & will reschedule. I had same metro problem. Call me when you get in.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

From: Dorka, Lilian

Sent: Wednesday, January 07, 2015 9:13 AM

To: Wooden-Aguilar, Helena; O'Lone, Mary

Cc: O'Lone, Mary

Subject: Re: Updated draft REACH jurisdictional review letter

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Helena Wooden-Aguilar

Assistant Director

External Civil Rights - US EPA

202-564-0792 (office)

Ex. 6 - Personal Privacy

wooden-aguilar.helena@epa.gov

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US EPA

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Washington, DC 20460

(202) 564-4992

<REACH 11R-14-R4 Acceptance Letter - Draft (1 7 2015)
mmo.doc>

To: Dorka, Lilian[Dorka.Lilian@epa.gov]
Cc: Wooden-Aguilar, Helena[Wooden-Aguilar.Helena@epa.gov]
From: O'Lone, Mary
Sent: Wed 1/7/2015 2:22:38 PM
Subject: RE: Updated draft REACH jurisdictional review letter

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Mary O'Lone

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Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

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From: Dorka, Lilian
Sent: Wednesday, January 07, 2015 9:13 AM
To: Wooden-Aguilar, Helena; O'Lone, Mary
Cc: O'Lone, Mary
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Helena Wooden-Aguilar

Assistant Director

External Civil Rights - US EPA

202-564-0792 (office)

Ex. 6 - Personal Privacy

wooden-aguilar.helena@epa.gov

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(202) 564-4992

<REACH 11R-14-R4 Acceptance Letter - Draft (1 7 2015)
mmo.doc>

To: Dorka, Lilian[Dorka.Lilian@epa.gov]
Cc: O'Lone, Mary[OLone.Mary@epa.gov]; Rhodes, Julia[Rhodes.Julia@epa.gov]
From: Wooden-Aguilar, Helena
Sent: Wed 1/7/2015 1:39:05 PM
Subject: Re: Updated draft REACH jurisdictional review letter

Thx. I running late so I will join when I arrive. If I don't make it I will catch up with the DD.

Helena Wooden-Aguilar
Assistant Director
External Civil Rights - US EPA
202-564-0792 (office)

Ex. 6 - Personal Privacy

wooden-aguilar.helena@epa.gov

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<REACH 11R-14-R4 Acceptance Letter - Draft (1 7 2015) mmo.doc>

To: O'Lone, Mary[OLone.Mary@epa.gov]; Dorka, Lilian[Dorka.Lilian@epa.gov]
Cc: Wooden-Aguilar, Helena[Wooden-Aguilar.Helena@epa.gov]; Rhodes, Julia[Rhodes.Julia@epa.gov]; Packard, Elise[Packard.Elise@epa.gov]
From: Golightly-Howell, Velveta
Sent: Tue 1/6/2015 9:33:01 PM
Subject: Re: Updated - Please review - response to recent Avi question re: REACH & litigation risk

Hi. Earthhustice's rep hasn't mentioned filing the complaint w/any other agency.

Velveta

From: O'Lone, Mary
Sent: Tuesday, January 6, 2015 12:22:20 PM
To: Dorka, Lilian
Cc: Wooden-Aguilar, Helena; Rhodes, Julia; Golightly-Howell, Velveta; Packard, Elise
Subject: RE: Updated - Please review - response to recent Avi question re: REACH & litigation risk

Just one last clarification. The complaint letter EPA got was addressed to just the Administrator and Velveta. I don't know if a separate complaint letter was sent to any other federal agency. But as far as I know Earthjustice has not mentioned to Helena or Velveta that they filed this one or a related one with any other agency & we haven't heard about it from the federal family. Also, my guess is that if they cc'd the Civil Rights Div. on one complaint, they'd cc them on others. Also, they like to get press hits when they file complaints (especially one as big as this one) & we haven't read about any others. So, it is probably unlikely it was filed anywhere else.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

From: Dorka, Lilian
Sent: Tuesday, January 06, 2015 2:14 PM
To: O'Lone, Mary; Wooden-Aguilar, Helena
Cc: Packard, Elise; Rhodes, Julia; Golightly-Howell, Velveta

Subject: RE: Updated - Please review - response to recent Avi question re: REACH & litigation risk

Yes, sorry I mean USDA. Thanks!

From: O'Lone, Mary
Sent: Tuesday, January 06, 2015 2:12 PM
To: Dorka, Lilian; Wooden-Aguilar, Helena
Cc: Packard, Elise; Rhodes, Julia; Golightly-Howell, Velveta
Subject: RE: Updated - Please review - response to recent Avi question re: REACH & litigation risk

You mean USDA? When I saw AG I thought you meant the Attorney General.

I don't think it was filed with any other agency, but Jeryl or Ericka would know better.

As I vaguely recall at one of our meetings with DOJ, they said were going to follow up with USDA to see what hook they might have into the NC swine farm regulatory process. But again, we should confirm my recollection with Jeryl or Ericka.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

From: Dorka, Lilian
Sent: Tuesday, January 06, 2015 1:45 PM
To: O'Lone, Mary; Wooden-Aguilar, Helena
Cc: Packard, Elise; Rhodes, Julia; Golightly-Howell, Velveta
Subject: RE: Updated - Please review - response to recent Avi question re: REACH & litigation risk

Thanks so much Mary! I was asking more so about whether it had been filed with AG? I was out aware of the accompanying info and will follow up to get the full copy of the complaint. If you have time tomorrow, I would love to follow up with you tomorrow if you have time, along with Helena. I will tryin to send you a calendar invite. Thaks again! Lilian

From: O'Lone, Mary
Sent: Tuesday, January 06, 2015 1:37 PM
To: Dorka, Lilian; Wooden-Aguilar, Helena
Cc: Packard, Elise; Rhodes, Julia; Golightly-Howell, Velveta
Subject: RE: Updated - Please review - response to recent Avi question re: REACH & litigation risk

Lilian-

Thanks so much for responding to quickly. Elise has also cleared the language, so we will send it forward.

Ex. 5 - Attorney Client/ Deliberative Process

Ex. 5 - Attorney Client/ Deliberative Process

We are happy to meet with you & I am happy to chat about any questions you may have. I am pretty wide open today & tomorrow. Mary

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

From: Dorka, Lilian

Sent: Tuesday, January 06, 2015 1:00 PM

To: O'Lone, Mary; Wooden-Aguilar, Helena

Cc: Packard, Elise; Rhodes, Julia; Golightly-Howell, Velveta

Subject: RE: Updated - Please review - response to recent Avi question re: REACH & litigation risk

Ex. 5 - Deliberative Process

In addition to this litigation question, not sure whether a briefing between Avi and the

Administrator has been set yet, but as Helena mentioned previously, it would be good for OCR and GC to have a follow up conversation soon to make sure we have coordinated our best thinking for moving this case forward and to ensure that all options are being considered.

Would really appreciate your thoughts on that. Thanks very much for your help! Lilian

P/S –a dumb question so my apologies for coming in late but we have checked on whether this complaint was filed only with EPA correct, that is, no companion complaint filed with AG?

From: O'Lone, Mary

Sent: Tuesday, January 06, 2015 11:56 AM

To: Wooden-Aguilar, Helena

Cc: Packard, Elise; Rhodes, Julia; Dorka, Lilian; Golightly-Howell, Velveta

Subject: Updated - Please review - response to recent Avi question re: REACH & litigation risk

We have a meeting today at 3 with Ethan. Our hope was to be able to give him the response to the litigation risk question at or before that meeting in order to respond to Avi's question as quickly as possible.

Helena-

Would you please coordinate all the OCR comments.

Also, please let me know if you have any question about the REACH complaint that I might be able to help you with. Thanks, Mary

PRIVILEGED -- ATTORNEY-CLIENT/ATTORNEY WORK PRODUCT

Ex. 5 - Attorney Client/ Deliberative

Ex. 5 - Attorney Client/ Deliberative

Ex. 5 - Attorney Client/ Deliberative

Ex. 5 - Attorney Client/ Deliberative

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

From: Wooden-Aguilar, Helena

Sent: Tuesday, January 06, 2015 10:58 AM

To: O'Lone, Mary

Cc: Packard, Elise; Rhodes, Julia; Dorka, Lilian; Golightly-Howell, Velveta

Subject: Re: Please review - response to recent Avi question re: REACH & litigation risk

Mary- thanks for your email and look forward to the revision. After a brief conversation with the Deputy Director she has asked that because of the sensitive nature of this case that she and Velveta be engaged closely on emails and discussions. I gave copied them on this email.

Also, the DD and I discussed the complaint and the various options to moving the JR forward.

We intend to meet with the Director this week (tomorrow) to discuss additional options and we hope to brief OGC on our thinking as soon as we meet with the Director.

I want to make sure that we are all on the same page and ensuring that the Adm/Cos have considered all options.

Thanks,

Helena

Helena Wooden-Aguilar

Assistant Director

External Civil Rights - US EPA

202-564-0792 (office)

Ex. 6 - Personal Privacy

wooden-aguilar.helena@epa.gov

On Jan 6, 2015, at 10:12 AM, "O'Lone, Mary" <OLone.Mary@epa.gov> wrote:

Yes please coordinate with deputy.

But first let me edit the response to mention the part about trying to set up a meeting. Will get you revised version shortly.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

From: Wooden-Aguilar, Helena

Sent: Tuesday, January 06, 2015 10:00 AM

To: O'Lone, Mary

Cc: Packard, Elise; Rhodes, Julia

Subject: Re: Please review - response to recent Avi question re: REACH & litigation risk

The Deputy is in today do would recommend she be looped in before it goes to Avi. If you need me to do this please let me know.

To my knowledge OCR has spoken to Earthjustice twice since August 2014. In those conversations the focus of the conversations were a meeting request put forth by the Title VI Alliance for the Administrator. This meeting arrangement is being handled by the Director. The conversation did not discuss any specifics of the Arrowhead investigation.

FYI- Earthjustice reached out to myself and the Director before the holidays to discuss Arrowhead and REACH. OCR is trying to coordinate dates for this meeting.

Helena Wooden-Aguilar

Assistant Director

External Civil Rights - US EPA

202-564-0792 (office)

Ex. 6 - Personal Privacy

wooden-aguilar.helena@epa.gov

On Jan 6, 2015, at 9:44 AM, "O'Lone, Mary" <OLone.Mary@epa.gov> wrote:

Helena & Elise-

Please review the draft response to Avi's question about litigation risk of continuing delay of release of the REACH jurisdictional review letter. Julia's comments have already been incorporated. Helena you will see also there is a question in there for you about contacts with Earthjustice. Thanks, Mary

PRIVILEGED -- ATTORNEY-CLIENT/ATTORNEY WORK PRODUCT

Ex. 5 - Attorney Client/ Deliberative

Ex. 5 - Attorney Client/ Deliberative

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Ex. 5 - Attorney Client/ Deliberative

Mary O'Lone

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US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

To: Wooden-Aguilar, Helena[Wooden-Aguilar.Helena@epa.gov]
Cc: Covington, Jeryl[Covington.Jeryl@epa.gov]
From: Farrell, Ericka
Sent: Mon 6/22/2015 12:25:00 PM
Subject: RE: Status of Administrative Complaint No. 11R-14-R4
11R-14-R4 Response to public inquiry.docx

Good Morning Helena,

Here is a draft response. It can also be cut and paste to an email if you should choose to respond via email.

Ericka

From: Wooden-Aguilar, Helena
Sent: Tuesday, June 16, 2015 7:18 PM
To: Farrell, Ericka
Cc: Covington, Jeryl
Subject: Fwd: Status of Administrative Complaint No. 11R-14-R4

Can you please draft a response and have it to me by Friday of this week?

Thanks

Helena

Helena Wooden-Aguilar

Assistant Director

US Environmental Protection Agency

202-564-0792 (office)

Ex. 6 - Personal Privacy

wooden-aguilar.helena@epa.gov

Begin forwarded message:

From: "Armstrong, Sherrie" <SArmstrong@crowell.com>
Date: June 12, 2015 at 10:52:34 AM EDT
To: "wooden-aguilar.helena@epa.gov" <wooden-aguilar.helena@epa.gov>
Subject: Status of Administrative Complaint No. 11R-14-R4

Ms. Wooden-Aguilar,

I am writing to inquire about the status of the September 3, 2014 Administrative Complaint filed by Earthjustice against the North Carolina Department of Environment and Natural Resources (No. 11R-14-R4). I know EPA accepted that complaint on February 20, 2015, but can't find any status update or related documents on the web apart from the Notification of Acceptance. Any information you can give me on its status or where I can find related documents would be much appreciated!

Many thanks,

Sherrie Armstrong

Sherrie A. Armstrong

sarmstrong@crowell.com

Direct: 1.202.624.2522 | Fax: 1.202.628.5116

Crowell & Moring LLP | www.crowell.com

1001 Pennsylvania Avenue NW
Washington, DC 20004

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Attorney-Client Communication
Attorney Work Product

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